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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/578,156	05/23/2000	Lundy Lewis	APB-019	4279

959 7590 02/09/2004

LAHIVE & COCKFIELD, LLP.  
28 STATE STREET  
BOSTON, MA 02109

EXAMINER
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COLLINS, SCOTT M

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 02/09/2004

16

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/578,156

Applicant(s)

LEWIS, LUNDY

Examiner

Scott M. Collins

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Claims 1-22 examined.
2. It is hereby acknowledged that the following papers have been received and placed of record in the file: Reconsideration on 11/07/2003, Revocation of Power of Attorney and changing Attorney Docket Number on 11/17/2003.

***Response to Arguments***

3. Applicant's arguments, see Reconsideration, filed 11/07/2003, with respect to the rejection(s) of claim(s) 1-26 under 35 U.S.C. 102(b) and 103(a) in view of Lundy have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made below.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson, U.S. Patent Number 6,012,095 (herein referred to as Thompson).
6. Referring to claim 1, Thompson has taught a system for providing service level management in a network, wherein a service is composed of network components and a state of the service depends on the state of the network components (Thompson column 11, lines 4-61 describes a system responding to levels of service), the system comprising:

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a. monitoring agent to monitor a respective aspect of operation of the network, the monitoring agent to detect one or more events relative to the respective aspect of operation and to generate an alarm as a function of the one or more detected events (Thompson figure 2, element 206; column 6, lines 14-41); and

b. an alarm correlation agent to receive the one or more alarms from the monitoring agents to determine a state of a service and, if necessary, to issue one or more instructions to establish a desire state of the service (Thompson figure 2, element 252; and figures 6 and 7).

7. Thompson has not expressly disclosed multiple monitoring agents. However, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to duplicate Thompson's disclosed monitoring agent. MPEP 2144.04, VI, B states "that mere duplication of parts has no patentable significance unless a new and unexpected result is produced" (see *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960)). Even still, one of ordinary skill in the art would have been motivated to do this in order to ease the monitoring burden of a single monitoring agent by spreading the monitoring burden across multiple monitoring agents.

8. Referring to claim 2, Thompson has taught the system wherein the monitoring agents comprise:

a trouble-ticketing agent to receive reports of problems by users with respect to operation of the network (Thompson column 11, lines 53-61);

The examiner would like to point out that due to the claim language "at least one of:", Thompson has fully taught this claim.

9. Referring to claim 3, Thompson has taught the system wherein the monitoring agents and alarm correlation agents comprise reasoning agents (Thompson column 11, lines 4-61 where the monitoring agents and alarm correlation agents work to reason together and decide on 'responses in the form of corrective actions.').

10. Referring to claim 4, Thompson has taught the system wherein the reasoning agents comprise:

a rule-based graph based reasoning agent (Thompson column 11, lines 20-30 where alarms are alerted if certain conditions occur.).

The examiner would like to point out that due to the claim language "at least one of:", Thompson has fully taught this claim.

11. Referring to claim 5, Thompson has taught the system comprising an alarm repository to receive the one or more alarms from the monitoring agents wherein the alarm correlation agent reads the alarm in the alarm repository (Thompson figure 7, element 710 and column 11, lines 14-16 where the data is indeed received from the alarm correlator.).

12. Claims 6-10 do not recite limitations above the claimed invention set forth in claims 1-5 and are therefore rejected for the same reasons set forth in the rejection of claims 1-5 above.

13. Claims 11 and 12 do not recite limitations above the claimed invention set forth in claims 1 and 4 respectively and are therefore rejected for the same reasons set forth in the rejection of claims 1 and 4 respectively above.

14. Claims 13-17 do not recite limitations above the claimed invention set forth in claims 1, 1 2, 4, and 4 respectively and are therefore rejected for the same reasons set forth in the rejection of claims 1, 1 2, 4, and 4 respectively above.

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15. Claim 18 is rejected for the same reasons set forth in the rejection of claim 1 above and it should be noted that Thompson does indeed disclose a first and second alarm (Thompson column 11, lines 4-61 where Thompson's system generates various alarms.).

16. Claims 19 and 20 do not recite limitations above the claimed invention set forth in the combination of claims 1 and 5 and are therefore rejected for the same reasons set forth in the rejection of claims 1 and 5 above.

17. Claim 22 does not recite limitations above the claimed invention set forth in claim 1 and is therefore rejected for the same reasons set forth in the rejection of claim 1 above.

18. Claims 23-25 do not recite limitations above the claimed invention set forth in claims 1, 2, and 4 respectively and are therefore rejected for the same reasons set forth in the rejection of claims 1, 2, and 4 respectively above.

19. Claims 21 and 26 are rejected for the same reasons set forth in the rejection of claim 1 above. The only difference between claims 21 and 26 over claim 1 is that they claim a computer program on a computer-readable medium. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to utilize only software and no hardware to create the invention as Thompson has claimed (see also Thompson figure 2). One of ordinary skill in the art would have been motivated to do this in order to create a product that can be easily transferred to many different systems and networks and to thus avoid utilizing more costly hardware when attempting to implement the product on various systems.

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*Conclusion*

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Jacobs U.S. Patent Number 5,761,502

Ross et al. U.S. Patent Number 6,356,885

Barker et al. U.S. Patent Number 6,363,421


Orchier et al. U.S. Patent Number 6,070,244

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott M. Collins whose telephone number is 703.305.7865. The examiner can normally be reached on Mon.-Fri. 8:00 am - 5:30 pm with alt. Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on 703.308.5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

smc  
February 5, 2004

  
DAVID WILEY  
SUPERVISORY PATENT EXAMINER  
EBC/ULOGY CENTER 2100